

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. S-34594

SOUTHWESTERN ELECTRIC POWER COMPANY,
EX PARTE

Docket No. S-34594 In re: Application for Exemption from the Request for Proposals ("RFP") Requirement in the Commission's Market Based Mechanisms General Order (R-26172) in Advance of Upcoming Request for Certification of Certain Renewable Resources.

(Decided at the Business and Executive Session held July 26, 2017.)

Overview

This matter was before the Louisiana Public Service Commission ("LPSC" or "Commission") for consideration of an application filed on behalf of Southwestern Electric Power Company ("SWEPCO") for an exemption from the request for proposals ("RFP") requirement of the Commission's Market-Based Mechanisms General Order ("MBM Order")¹. SWEPCO sought this exemption as being in the public interest and for the benefit of ratepayers, so that SWEPCO may proceed to file an application for certification of new wind resources, subject to the Commission's 1983 Certification Order², and any other applicable Commission Orders, and with the Commission having full rights to review the prudence of the investment. According to SWEPCO, this was necessary due to the pending expiration of the Production Tax Credit ("PTC"). The Commission granted SWEPCO an exception to the MBM Order subject to the terms and conditions herein.

Commission Authority

The Commission exercises its jurisdiction in this proceeding pursuant to Article IV, Sec. 21 of the Louisiana Constitution, and Commission Orders issued pursuant to this constitutional authority. La. Const. Art. IV, Sec. 21 provides in pertinent part:

The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and perform other duties as provided by law.

The Commission's 1983 Certification Order requires a utility to obtain the Commission's approval of, among other things, any project to construct or purchase new generating resources.

¹ LPSC General Order dated October 29, 2008 (Docket No. R-26172).

² LPSC General Order dated September 20, 1983 as modified by LPSC General Order dated October 29, 2008 (Docket No. R-30517).

and requires advance certification from the Commission that the proposed project serves the public convenience and necessity:

The Commission's MBM Order augments the procedures of the 1983 General Order and requires a utility proposing to acquire or build new generating capacity or to enter into purchased power contracts to "employ a market-based mechanism" consisting of [an RFP] competitive solicitation process." The utility must present the results and analysis from this RFP to the Commission as part of the "justification" required by Paragraph (2) of the 1983 General Order. In addition, the MBM Order prescribes procedures to be followed by the utility in conducting the RFP process and presenting the results of that process to the Commission Staff. The procedures required by the MBM Order include, among other things, the use of an independent monitor to track the utility's conduct of the RFP, to report to the Staff at appropriate intervals about the RFP process, and to alert the Staff to any irregularities in the RFP process or any concerns.

Paragraph 17 of the MBM Order provides the following with regard to renewable resources:

Nothing in this Rule is intended to inhibit or restrict the utility from acquiring renewable resources through its RFP as a separate product using separate evaluation criteria. However, the acquisition of such renewable resources remains subject to the Commission's rules for certification and approval.

Procedural History

SWEPCO filed this application on July 11, 2017 and it was published in the Commission's Official Bulletin dated July 14, 2017 for a 10-day intervention period that expired without intervention. SWEPCO filed the supporting testimony of Tom P. Brice on July 17, 2017. At SWEPCO's request the application was placed on the Commission's July 26, 2017 Business and Executive Session ("B and E") Agenda.

SWEPCO's Application

In support of its application, SWEPCO stated that along with its parent company American Electric Power ("AEP") it has substantial experience in evaluating and assessing wind resources and is very knowledgeable of the market for these resources. In addition, this Commission has approved nearly 400 megawatts ("MW") of wind resources for the benefit of SWEPCO ratepayers in recent years. Specifically, on December 14, 2011, in Docket U-32095 the Commission unanimously approved SWEPCO's application for the purchase of 31 MW of

renewable resources. And more recently, on June 7, 2016 in Docket U-32814 the Commission unanimously approved SWEPCO's acquisition of an additional 357 MW of renewable wind resources, which are currently serving SWEPCO ratepayers.

Further, SWEPCO stated in its application that some of the particular timeframe requirements set forth in the MBM Order adversely impact the Company's ability to pursue this unique opportunity to obtain wind resources for the benefit of ratepayers and with SWEPCO also needing to obtain approval from other state jurisdictions. SWEPCO indicated its intent to promptly seek certification from this Commission for any acquired resources if its request was granted.³

Staff Recommendation

Staff made no formal recommendation on the merits of SWEPCO's request given the limited amount of time to review the application and the fact that exceptions from the Commission's MBM General Order requirements are policy decisions best reserved for the Commission. Staff did, however, provide the Commission with terms and conditions that should be imposed if the Commission granted an exception in this instance. Those conditions (enumerated below) were read into the record at the Commission's July 26, 2017 B and E as set forth below.

Commission Consideration

On motion of Commissioner Francis, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to grant SWEPCO an exception to the Commission's Market Based Mechanisms General Order (R-26172) under the following terms and conditions:

1. The Commission reserves all of its rights to review the prudence of SWEPCO's decision in the certification proceeding;
2. The Commission reserves all of its rights to review the sufficiency of SWEPCO's selection process in the certification proceeding;
3. This exception does not limit in any way the Commission's ability to make a finding in the certification proceeding regarding whether SWEPCO showed sufficient justification of public convenience and necessity, as required by applicable Commission Orders, including whether SWEPCO sufficiently performed a test of the market for the lowest reasonable cost resource;

³ Subsequent to the Commission's vote in this matter but prior to the issuance of this order, SWEPCO's certification request was filed and docketed as LPSC Docket No. U-34619 - *Southwestern Electric Power Company (SWEPCO), ex parte. In re: Application for Expedited Certification and Approval of the Acquisition of Certain Renewable Resources and the Construction of a Generation Tie Pursuant to the 1983 and/or 1994 General Orders.*

4. This exception is limited to the specific circumstances of this application and is not precedential; and
5. This exception cannot be relied on by SWEPCO in the certification proceeding as justification for its decision to select any resource or for the selection process employed by SWEPCO.

IT IS THEREFORE ORDERED THAT:

1. The Commission grants SWEPCO an exception to the Commission's MBM Order under the following terms and conditions:
 - a. The Commission reserves all of its rights to review the prudence of SWEPCO's decision in the certification proceeding;
 - b. The Commission reserves all of its rights to review the sufficiency of SWEPCO's selection process in the certification proceeding;
 - c. This exception does not limit in any way the Commission's ability to make a finding in the certification proceeding regarding whether SWEPCO showed sufficient justification of public convenience and necessity, as required by applicable Commission Orders, including whether SWEPCO sufficiently performed a test of the market for the lowest reasonable cost resource;
 - d. This exception is limited to the specific circumstances of this application and is not precedential; and
 - e. This exception cannot be relied on by SWEPCO in the certification proceeding as justification for its decision to select any resource or for the selection process employed by SWEPCO.
2. This Order is effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

August 24, 2017

/S/ ERIC F. SKRMETTA

DISTRICT I

CHAIRMAN ERIC F. SKRMETTA

/S/ LAMBERT C. BOISSIERE

DISTRICT III

VICE CHAIRMAN LAMBERT C. BOSSIERE

/S/ FOSTER L. CAMPBELL

DISTRICT V

COMMISSIONER FOSTER L. CAMPBELL

/S/ MIKE FRANCIS

DISTRICT IV

COMMISSIONER MIKE FRANCIS



EVE KAHAO GONZALEZ
SECRETARY

/S/ DAMON J. BALDONE

DISTRICT II

COMMISSIONER DAMON J. BALDONE